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Bill Baker CFO of Megaxes, Megacess, Inc. Trevion II, Suite 206 12800 Middlebrook Road Germantown, MD 20874			ART UNIT 2145	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/847,039	VAMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeffrey R. Swearingen	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 April 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-43 is/are rejected.
- 7) Claim(s) 44-46 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

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#### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Objections***

2. Claims 44-46 are objected to because of the following informalities: Claims 44-46 have not been submitted. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 29, 33, 36, 38, 40 and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The aforementioned claims refer to a data structure. The Examiner finds no support in the specification for a data structure and therefore considers it to constitute new matter. The lack of support in the specification for a data structure causes enablement issues to arise as well. There is no description of an embodiment to contain the data structure, nor is there support for storing information in the data structure.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 29, 33, 36, 38, 40, and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. The aforementioned claims are rejected as indefinite because the Examiner is unclear where the data structure is embodied.

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 29, 33, 36, 38, 40 and 41 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims reference a data structure. There is no support in the specification for a data structure; likewise there is no limitation in the specification that limits the embodiment containing a data structure (assuming, *arguendo*, such an embodiment exists) to tangible, physical media such as a computer readable medium and prevents said data structure from being embodied upon intangible media such as carrier waves or wireless transmission media.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 10-1118-26, 29-30 and 37-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Yin et al. (U.S. Patent No. 5,982,748), hereafter referred to as Yin.

12. Pertaining to claim 1, Yin teaches:

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formulating a query message at a client machine, said query message containing a source IP address and a QoS profile requirement of a user application; [Column 5, lines 51-53, where "various traffic parameters and QoS requirements" is interpreted as "a source IP address and a QoS profile requirement"]

sending the query message to a server machine; [Column 5, lines 53-55]

decoding the query message at the server machine; [Column 5, lines 55-57]

determining availability of PVC connections and SVC connections at the server; [Column 5, lines 61-62]

formulating a response message at the server machine, said response message containing server information and the availability of the PVC connections and the SVC connections; [Column 6, lines 24-35, where a rejection signal is interpreted as a response message. Accepting the request would require an acknowledgement to the client, which is also interpreted as a response message.]

sending the response message to the client machine; [Column 6, lines 26-28. Accepting the request would require an acknowledgement to the client, which is also interpreted as a response message.]

decoding the response message at the client machine; [Column 6, lines 26-28, where decoding the response message is interpreted as receiving the response message sent. Accepting the request would require an acknowledgement to the client, which is also interpreted as a response message.] and

connecting the client machine to the server machine based upon the response message.

[Column 6, lines 30-31]

13. Pertaining to claim 10, Yin discloses:

a QoS selector located at a client machine, the QoS selector gathering client application QoS requirements and formulating connection requests; [column 3, lines 39-41, where a request with

QoS requirements is interpreted as gathering client application QoS requirements and formulating connection requests]

a second QoS selector located at a server machine, the second QoS selector receiving the connection requests and formulating connection responses indicating PVC connection availability and SVC connection availability; [column 6, line 16-23, where available resources is interpreted as PVC connection availability and SVC connection availability and where considering the QoS requirements of the requested connection is interpreted as receiving the connection requests.

column 6, lines 8-9 shows formulation of connection responses]

means for storing server information at the client machine; [Column 4, lines 40-45 discloses a database tracking connection information. Both client and server must know the appropriate connection information in order to maintain the connection, so both client and server should have a database tracking such information.] and

connection means located at the client machine, said connection means receiving the connection response and connecting the client application to the server machine based upon the connection response. [Figure 3, item 66, where accepting the connection is interpreted as receiving the connection response and connecting the client application to the server machine based upon the connection response]

14. Pertaining to claim 11, Yin is applied as in claim 10. Yin further discloses the first QoS selector stores an IP address of the client machine in the connection request. [Column 3, lines 39-41, where connection traffic parameters is interpreted as including an IP address of the client machine]

15. In regard to claims 18-22, the limitations of these claims are substantially the same as the limitations embodied within claim 1. Therefore the rejection against claim 1 is applicable against claims 18-22. The service indicator data in claim 18 is equivalent to the QoS profile requirement in claim 1. The availability of the level of service at the respective server in claim 19 is equivalent to the availability of connections and server information in claim 1. The availability of PVC connections and SVC connections in claim 20 is equivalent to the availability of PVC and SVC connections in claim 1. The Quality of

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Service availability in claim 21 is equivalent to the availability of PVC and SVC connections and server information in claim 1. Selecting a server for communication with the client application based at least in part on the service indicator data in claim 22 is equivalent to connecting a client machine to a server machine based upon the availability of PVC connections and SVC connections in claim 1. Regarding a plurality of servers, Yin discloses the Connection Admission Controller can determine whether a particular link or links (e.g. server or servers) can accept the new connection. Yin, column 3, lines 31-35.

16. In regard to claims 23-26, the limitations of these claims are substantially the same as the limitations embodied within claim 1. Therefore the rejection against claim 1 is applicable against claims 23-26. Regarding a plurality of servers, Yin discloses the Connection Admission Controller can determine whether a particular link or links (e.g. server or servers) can accept the new connection. Yin, column 3, lines 31-35. In regard to claim 24, the source IP address is inherent to the request for establishing a connection. The availability of PVC connections and SVC connections in claim 25 is equivalent to the availability of PVC and SVC connections in claim 1. The Quality of Service availability in claim 26 is equivalent to the availability of PVC and SVC connections and server information in claim 1.

17. In regard to claim 29, the limitations of this claim are substantially the same as the limitations embodied within claim 1. Therefore the rejection against claim 1 is applicable against claim 29.

18. In regard to claim 30, Yin is applied as in claim 29. The storing of the client IP address is inherent to the connection request.

19. In regard to claim 37, Yin is applied as in claim 29. The level of service is a Quality of Service (QoS) level and the selector is configured to gather QoS requirements for the client application is a limitation found in the rejection against claim 1, which has been previously applied to claim 29.

20. In regard to claim 38, Yin is applied as in claim 37. It is inherent to store data in a data structure since data is being transferred between machines.

21. In regard to claim 39, Yin is applied as in claim 29. Regarding a plurality of servers, Yin discloses the Connection Admission Controller can determine whether a particular link or links (e.g. server or servers) can accept the new connection. Yin, column 3, lines 31-35.

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22. In regard to claim 40, Yin is applied as in claim 39. The additional limitation of claim 40, receiving a connection response indicating service level capability, is found in the rejection of claim 1, which is applied here by dependency to claims 29 and 39.
23. In regard to claim 41, Yin is applied as in claim 39. The QoS level and QoS capability limitations of claim 41 are found in the rejection of claim 1, which is applied here by dependency to claims 29 and 39.
24. In regard to claim 42, Yin is applied as in claim 39. Connecting a client to a server based on the server level capacity is found in the rejection of claim 1, which is applied here by dependency.
25. In regard to claim 43, Yin is applied as in claim 29. Yin further discloses a QoS level and connecting a client to a server based on the QoS capability of the server in the rejection of claim 1, which is applied here by dependency to claim 29.

***Claim Rejections - 35 USC § 103***

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
27. Claims 2-4 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin in view of Motabayashi (U.S. Pub. No. US 2004/0170178 A1).

Pertaining to claim 2, Yin discloses the invention substantially as claimed. Yin fails to disclose

connecting the client machine to the server machine using the PVC connection when the response message indicates that the PVC connection is available.

Motabayashi discloses connecting the client machine to the server machine using the PVC connection when the response message indicates that the PVC connection is available.

[Motabayashi, Figure 7A, item 713]

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It would have been obvious to one of ordinary skill in the networking art at the time of the invention to have incorporated Motobayashi's teachings of initiating a PVC connection with the teachings of Yin for the purpose of setting an optimum queue to be assigned to the new PVC connection. See Motobayashi, paragraph [0057]. Yin provides motivation by stating that each new connection must receive at minimum the Quality of Service requirements requested. See Yin, column 3, lines 20-35. By this rationale claim 2 is rejected.

Pertaining to claim 3, Yin fails to disclose connecting the client machine to the server machine using the SVC connection when the response message indicates that the SVC connection is available.

Motobayashi discloses connecting the client machine to the server machine using the SVC connection when the response message indicates that the SVC connection is available.

[Motobayashi, page 5, paragraph 0063] By this rationale claim 3 is rejected.

Pertaining to claim 4, Yin and Motobayashi are applied as in claim 3. Yin further discloses a local database that stores information regarding existing connections that is updated based on the addition or removal of connections. [Column 4, lines 35-45, which is interpreted as receiving additional response messages from the server; extracting server information stored in the additional response messages; and storing the server information in a connection database at the client machine]. By this rationale claim 4 is rejected.

28. In regard to claim 27, Yin is applied as in claim 23. The additional limitations of claim 27 are substantially same as the additional limitations of claim 2. Therefore the motivation for combining Yin in view of Motobayashi in claim 2 is equally applicable against claim 27.
29. In regard to claim 28, Yin is applied as in claim 23. The additional limitations of claim 28 are substantially same as the additional limitations of claim 3. Therefore the motivation for combining Yin in view of Motobayashi in claim 3 is equally applicable against claim 28.

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30. Claims 5 and 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yin and Motobayashi as applied to claim 4 above, and further in view of Bouillet et al. (U.S. Pub. No. US 2003/0101263 A1).

Pertaining to claim 5, Yin and Motobayashi are applied as in claim 4. Yin does explicitly disclose rejecting a connection if the necessary QoS resources are not available to make the connection [columns 5-6]. Yin and Motobayashi fail to explicitly disclose repeating the steps of claim 4 until a server having the QoS profile has been identified.

Bouillet discloses repeatedly trying to route a call and updating its monitors until a route is discovered that has the bandwidth to meet the call's requirements. [Page 6, paragraph 0071 describes Bouillet's repeated attempts to setup a call if the initial call setup attempt has failed. Attempting to setup the call on a different route and getting information back from the servers if the route is unable to handle the call as described in 0071 and Figure 5 is interpreted as receiving additional response messages from the server; extracting server information stored in the additional response messages; and storing the server information in a connection database at the client machine]

It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine Bouillet's teachings with the teachings of Yin and Motobayashi for the purpose of preventing network roadblocks from excessive traffic on a link. See Bouillet, page 6, paragraph [0076]. Yin provides motivation by stating that each new connection must receive at minimum the Quality of Service requirements requested, and that determining that each connection receives the minimums depends in part on network resource availability. See Yin, column 3, lines 20-35. By this rationale claim 5 is rejected.

Pertaining to claim 6, Yin and Motobayashi describe connecting to a server having a desired QoS profile. Yin and Motobayashi fail to disclose connecting the client machine to the server having

the desired QoS profile.

Bouillet discloses connecting the client machine to the server having the desired QoS profile.

[page 4, paragraph 0056, where an undersubscribed service route with sufficient available bandwidth is interpreted as having the desired QoS profile]. By this rationale claim 6 is rejected.

31. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin and Bouillet.

Pertaining to claim 7, Yin teaches receiving the connection response from at least one of the plurality of servers, the connection response comprising a QoS level, server information, and connection information; [Yin, column 5, lines 51-55] extracting the QoS level, server information, and connection information from the connection response; [Yin, column 5, lines 59-60] storing the QoS level, server information, and connection information in a connection database; [Yin, column 4, lines 40-45] and searching the connection database for a server having a desired QoS level. [Yin, column 6, lines 16-23] Yin fails to disclose querying a plurality of servers for a connection response; and repeating the steps of querying, receiving, extracting, storing, and searching until the server having the desired QoS level is identified.

Bouillet discloses querying a plurality of servers for a connection response; [page 4, paragraph 0046] storing the QoS level, server information, and connection information in a connection database; [Bouillet, page 6, paragraph 0070] searching the connection database for a server having a desired QoS level; [Bouillet, Figure 5, item 160] and repeating the steps of querying, receiving, extracting, storing, and searching until the server having the desired QoS level is identified. [Page 6, paragraph 0071 describes Bouillet's repeated attempts to setup a call if the initial call setup attempt has failed. Attempting to setup the call on a different route and getting information back from the servers if the route is unable to handle the call as described in 0071 and Figure 5 is interpreted as receiving additional response messages from the server; extracting server information stored in the additional response messages; and storing the server information in a connection database at the client machine]

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It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine Bouillet's teachings with the teachings of Yin for the purpose of preventing network roadblocks from excessive traffic on a link. See Bouillet, page 6, paragraph [0076]. Yin provides motivation by stating that each new connection must receive at minimum the Quality of Service requirements requested, and that determining that each connection receives the minimums depends in part on network resource availability. See Yin, column 3, lines 20-35. By this rationale claim 7 is rejected.

Pertaining to claim 8, Yin and Bouillet are applied as in claim 7. Yin discloses retrieving the server information and the connection information from the connection database; [column 6, lines 3-5] and negotiating a connection between the client application and the desired server using a PVC connection or an SVC connection between the client application and the desired server. [column 6, lines 28-32. Yin discusses connections for an ATM network, which includes PVC connections and SVC connections.]. Yin fails to disclose selecting a desired server based upon the server information and the network information.

Bouillet discloses selecting a desired server based upon the server information and the network information. [page 4, paragraph 0056] By this rationale claim 8 is rejected.

Pertaining to claim 9, Yin and Bouillet are applied as in claim 8. Bouillet fails to disclose repeating the steps of retrieving, selecting, and negotiating when a new connection is requested by the client application.

Yin discloses repeating the steps of retrieving, selecting, and negotiating when a new connection is requested by the client application. [Column 4, lines 34-48, show that Yin receives connection requests and updates a database based on the addition and removal of connections. Therefore Yin will be able to repeat the steps of retrieving, selecting, and negotiating when a new connection is requested, regardless of its origin.] By this rationale claim 9 is rejected.

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32. Claims 12 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin in view of Kozaki et al. (U.S. Patent No. 5,530,698), hereafter referred to as Kozaki.

Pertaining to claim 12, Yin is applied as in claim 11. Yin fails to disclose the second QoS selector stores VPI/VCI connection pair values in the connection response when a PVC connection exists at the server machine.

Kozaki discloses the second QoS selector stores VPI/VCI connection pair values in the connection response when a PVC connection exists at the server machine. [column 6, lines 48-55. Kozaki shows that a PVC connection can be identified with a VPI/VCI pair.]

It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Kozaki with the teachings of Yin for the purpose of discarding packets that were not designated for the PVC connection and allowing packets that were designated to enter the appropriate queue. [Kozaki, column 6, lines 1-64]. Yin provides motivation by attempting to limit cell delays through a queue scheduler algorithm or similar procedure. [Yin, column 4, lines 2-28] By this rationale claim 12 is rejected.

33. In regard to claim 31, the limitations of this claim are substantially the same as the limitations embodied within claim 12. Yin is applied as in claim 29. Therefore the motivation to combine Yin in view of Kozaki in claim 12 is equally applicable against claim 29.

34. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yin and Kozaki as applied to claim 12 above, and further in view of Nagami et al. (U.S. Pub. No. US 2004/0015590 A1), hereafter referred to as Nagami.

Pertaining to claim 13, Yin and Kozaki describe establishing ATM connections, including PVC connections. Yin and Kozaki fail to disclose including an ATM address of the server machine when an SVC connection exists at the server machine.

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Nagami discloses the second QoS selector includes an ATM address of the server machine when an SVC connection exists at the server machine. [Page 7, paragraph 0107 states that each terminal device or ATM switch mode has its own link layer address.]

It would be obvious at the time of the invention to combine the teachings of Nagami with the teachings of Yin and Kozaki, for the purpose of packet transfer between two networks [see Nagami, page 4, paragraph [0033]. Yin provides motivation by stating that a network node such as an ATM switch or other network device can be used to implement the teachings of Yin. [see Yin, column 4, lines 31-34] By this rationale claim 13 is rejected.

35. Claims 14-17 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin, Kozaki and Nagami as applied to claim 13 above, and further in view of Motobayashi.

Pertaining to claim 14, Yin, Kozaki and Nagami disclose a method of establishing ATM connections including PVC and SVC connections. Yin, Kozaki and Nagami fail to explicitly disclose the connection means establishes a PVC connection between the client machine and the server machine when the VPI/VCI connection pair values are detected in the connection response.

Motobayashi discloses the connection means establishes a PVC connection between the client machine and the server machine when the VPI/VCI connection pair values are detected in the connection response. [Motobayashi, page 5, paragraph 0063, where determining that the connection is of the PVC system is interpreted as detecting the VPI/VCI connection pair values in the connection response]

Motivation to combine Motobayashi with Yin, Kozaki and Nagami is the same as the motivation used to combine Motobayashi with Yin in claim 2. By this rationale claim 14 is rejected

Pertaining to claim 15, Yin, Kozaki, Nagami and Motobayashi disclose establishing ATM connections between two nodes, including PVC and SVC connections. Yin, Kozaki and Nagami

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fail to explicitly disclose the connection means establishes an SVC connection between the client machine and the server machine when the ATM address is detected in the connection response. Motobayashi discloses the connection means establishes an SVC connection between the client machine and the server machine when the ATM address is detected in the connection response. [Motobayashi, page 5, paragraph 0063, where determining that the connection is of the SVC system is interpreted as detecting an ATM address in the connection response.] By this rationale claim 15 is rejected.

Pertaining to claim 16, Yin, Kozaki, Nagami and Motobayashi are applied as to claim 15. Yin, Kozaki and Nagami fail to disclose the storage means extracts ATM connection information, server mapping information, server QoS information, and server address information from the connection response.

Motobayashi discloses the storage means extracts ATM connection information, server mapping information, server QoS information, and server address information from the connection response. [Motobayashi, page 5, paragraph 0064, where extracting the attribute of the connection is interpreted as extracting ATM connection information, server mapping information, server QoS information, and server address information from the connection response]

By this rationale claim 16 is rejected.

Pertaining to claim 17, Yin, Kozaki, Nagami and Motobayashi are applied as to claim 16. Kozaki, Nagami and Motobayashi fail to disclose the storage means stores the ATM connection information, server mapping information, server QoS information, and server address information in a connection database.

Yin discloses the storage means stores the ATM connection information, server mapping information, server QoS information, and server address information in a connection database.

Yin further discloses a local database that stores information regarding existing connections that is updated based on the addition or removal of connections. [Column 4, lines 35-45, which is

interpreted as receiving additional response messages from the server; extracting server information stored in the additional response messages; and storing the server information in a connection database at the client machine]. By this rationale claim 17 is rejected.

36. In regard to claim 32, Yin in view of Kozaki is applied as in claim 31. The limitations of claim 32 are substantially the same as the limitations of claim 14. Therefore the obviousness rejection against claim 14 is equally applicable against claim 32.

37. In regard to claims 33-34, Yin in view of Kozaki is applied as in claim 29. The limitations of claim 32-34 are substantially the same as the limitations of claim 15. Storing data in a data structure is inherent to transmitting information between machines, as in claim 33. Therefore the obviousness rejection against claim 15 is equally applicable against claims 33-34.

38. In regard to claim 35, Yin in view of Kozaki is applied as in claim 29. The limitations of claim 35 are substantially the same as the limitations of claim 16. Therefore the obviousness rejection against claim 16 is equally applicable against claim 35.

39. In regard to claim 36, Yin in view of Kozaki in further view of Nagami in further view of Motobayashi is applied as in claim 35. The storing of data in a data structure is inherent to transmitting data between machines.

#### ***Response to Arguments***

40. Applicant's arguments filed 4/11/2005 have been fully considered but they are not persuasive.

41. Applicant traverses the rejection of claim 1 over Yin. Applicant apparently argues that Yin teaches away from the availability of multiple different connections. The claim language states "determining availability of PVC connections and SVC connections", which the Examiner reads as determining whether a connection is available, not multiple different connections. Yin teaches accepting a connection if the necessary resources requested are available, which clearly fulfills the submitted language of claim 1.

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42. Applicant traverses the rejections of claims 10 and 11 over Yin. Applicant apparently argues that Yin does not teach or suggest formulating responses indicating the availability of multiple different connections. The claim language speaks to determining connection availability, not multiple different connections. The Examiner's response to claim 1 is adequate to respond to Applicant's traversal of claims 10 and 11.

43. Applicant traverses claims 2-4 based upon the "multiple types of connections argument applied to claim 1. The Examiner has addressed this argument in claim 1. Since multiple types of connections are not denoted in the claim language, Applicant cannot argue that this is a necessary portion of the claim, which is not taught in the reference. In regard to claim 2, Motobayashi clearly teaches PVC connection establishment. In regard to claim 3, Motobayashi clearly teaches SVC connection establishment. In regard to claim 4, the argument appears to be the same as the argument of claim 1.

44. Applicant traverses claims 5-6 as rejected by the combination of Yin, Motobayashi, and Bouillet. The Examiner is unclear what Applicant's exact argument is against the Bouillet reference. Applicant states that Bouillet does not suggest sending query messages to other servers, yet this aspect is covered in the rejection of independent claim 1 by Yin. Applicant states that the combination of Yin, Motobayashi, and Bouillet does not suggests determining the availability of multiple connections. This is also taught by Yin, as discussed in the Examiner's response to Applicant's traversal of the rejection of Claim 1 over Yin.

45. Applicant traverses claims 7-9 as rejected by the combination of Yin in view of Bouillet. Applicant argues that "Yin and Bouillet does not suggest querying a plurality of servers for a connection response in receiving a connection response from at least one server comprising a QoS level, server information and connection information and storing that information in a connection data base", which the Examiner interprets as best possible to mean that Yin and Bouillet do not teach the limitations of claim 7. See office action of 10/21/2004, paragraph 9, pages 8-10.

46. Applicant traverses claim 12 as rejected by Yin in view of Kozaki. Applicant argues that Yin in view of Kozaki fails to teach or suggest the first and second QoS selectors with the second QoS selector configured to receive connection requests and to formulate connection responses regarding the availability of PVC and SVC connections as well as storage of a VPI/VCI connection pair value when the

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connection response indicates that a PVC connection exists at the server machine. See office action of 10/21/2004, paragraph 10, page 10.

47. Applicant traverses claim 13 as rejected by Yin in view of Kozaki in further view of Nagami. Applicant argues that Yin in view of Kozaki in further view of Nagami fails to suggest the second QoS selector at the server machine configured to respond to requests for information including PVC and SVC connection availability and an ATM address of the server machine when an SVC connection exists at the server. See office action of 10/21/2004, paragraph 11, pages 10-11.

48. Applicant traverses claims 14-17 as rejected by Yin in view of Kozaki in further view of Nagami in further view of Motobayashi. In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

#### ***Conclusion***

49. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571-272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jry

v. martin Wallace

VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER